

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

OCTOBER TERM, 1905.

No. 1584.

EDMUND K. FOX, APPELLANT,

vs.

BRIGHTWOOD RAILWAY COMPANY OF THE DISTRICT
OF COLUMBIA, A CORPORATION.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

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In the Court of Appeals of the District of Columbia.

EDMUND K. Fox, Appellant,
vs.
BRIGHTWOOD RAILWAY COMPANY OF THE DISTRICT OF
Columbia, a Corporation. } No. 1584.

a Supreme Court of the District of Columbia.

EDMUND K. Fox, Plaintiff,
vs.
BRIGHTWOOD RAILWAY COMPANY OF THE
District of Columbia, a Corporation, Defendant. } No. 46967. At Law.

UNITED STATES OF AMERICA, } ss:
District of Columbia,

Be it remembered, that in the supreme court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had, in the above entitled cause, to wit:

1 Declaration.

Filed May 25, 1904.

In the Supreme Court of the District of Columbia.

EDMUND K. Fox, Plaintiff,
vs.
BRIGHTWOOD RAILWAY COMPANY OF THE
District of Columbia, a Corporation, Defendant. } At Law. No. 46967.

First Count.—The plaintiff, Edmund K. Fox, sues the defendant, The Brightwood Railway Company of the District of Columbia, a corporation duly incorporated under the laws of the United States, to recover from said defendant all that piece or parcel of ground lying and being situated in the county of Washington in the District of Columbia, and being part of a tract of land known as "Robert's Choice"; beginning for the same at a stone planted in the

easterly line of the Piney Branch road at its intersection with the eighth line of a tract of land called "Support," and running thence with said east line of said road north 31 degrees 44 minutes east 457.5 feet to a stone and to the Grammer land, thence leaving said road, south 60 degrees east 605.8 feet, with the Grammer land to a stone planted in the seventh line of said tract of land called "Support" and the Beall land, thence with said seventh line of "Support," south 33 degrees 53 minutes west 258.15 feet, with the Beall land to a stone in the eighth line of "Support," and thence with said eighth line of "Support" north 78 degrees 22½ minutes west 634.4 feet to the place of beginning, containing 4.92 acres more or less, in which plain-

2 tiff claims a fee simple title, and of which plaintiff was the owner in fee simple and was lawfully possessed on to wit, the 6th day of November, A. D., 1903, and thereafter on to wit, the 6th day of November, A. D., 1903, the said defendant wrongfully entered into possession of the same and wrongfully ejected the plaintiff therefrom, and unjustly and wrongfully detained and still detains the possession thereof from the plaintiff; and the plaintiff claims possession of the above described real estate, with the appurtenances thereto belonging, and costs of this suit.

Second Count.—And the plaintiff, Edmund K. Fox, further sues the defendant, The Brightwood Railway Company of the District of Columbia, a corporation duly incorporated under the laws of the United States, for that the said defendant heretofore, to wit, on the 6th day of November, A. D., 1903, broke and entered into all that said piece or parcel of ground being situated in the county of Washington in the District of Columbia, and being part of a tract of land known as "Robert's Choice;" beginning for the same at a stone planted in the easterly line of the Piney Branch road at its intersection with the eighth line of a tract of land called "Support," and running thence with said east line of said road north 31 degrees 44 minutes east 457.5 feet to a stone and to the Grammer land, thence leaving said road, south 60 degrees east 605.8 feet, with the Grammer land to a stone planted in the seventh line of said tract of land called "Support" and the Beall land, thence with said seventh line of "Support," south 33 degrees 53 minutes west 258.15 feet, with the Beall land

3 to a stone in the eighth line of "Support" and thence with said eighth line of "Support," north 78 degrees 22½ minutes west 634.4 feet to the place of beginning, containing 4.92 acres more or less, of which the plaintiff was at the time aforesaid and still is the owner in fee simple, and ejected, expelled, put out and amoved the said plaintiff from the possession and occupation thereof, and kept and continued him so expelled, ejected, put out and amoved from the same, and has from the said 6th day of November, A. D., 1903, taken, had and received to the use of said defendant all the issues and profits of the said piece or parcel of ground, being of the yearly value of one hundred dollars, whereby the said plaintiff, during all the time aforesaid, has lost the issues and profits of said prem-

ises, and has been deprived of the use, occupation and enjoyment of the same.

Wherefore the plaintiff claims to recover from said defendant the sum of sixty dollars (\$60.00), besides costs of this suit.

P. H. MARSHALL,
Attorney for Plaintiff.

Rule to Plead.

The defendant is to plead hereto on or before the twentieth day, exclusive of Sundays and legal holidays, occurring after the day of the service hereof; otherwise judgment.

P. H. MARSHALL,
Attorney for Plaintiff.

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Plea.

Filed June 27, 1904.

In the Supreme Court of the District of Columbia.

EDMUND K. FOX	}	At Law. No. 46967.
vs.		
BRIGHTWOOD RAILWAY COMPANY.		

The defendant, Brightwood Railway Company of the District of Columbia, for plea to the declaration filed in the above entitled cause, says that it is not guilty as therein alleged.

J. J. DARLINGTON,
R. B. BEHREND,
Attorneys for Defendant.

Joinder of Issue.

Filed June 27, 1904.

In the Supreme Court of the District of Columbia.

EDMUND K. FOX, Plaintiff,	}	At Law. No. 46967.
vs.		
BRIGHTWOOD RAILWAY COMPANY OF THE District of Columbia, a Corporation, De- fendant.		

The plaintiff joins issue upon the defendant's plea filed herein.

P. H. MARSHALL,
Attorney for Plaintiff.

Agreed Statement of Facts.

Filed March 27, 1905.

In the Supreme Court of the District of Columbia.

EDMUND K. FOX, Plaintiff,
vs.BRIGHTWOOD RAILWAY COMPANY OF THE } At Law. No. 46967.
District of Columbia, a Corporation, Defend- }
ant. }

It is hereby stipulated and agreed between counsel for the respective parties that for the purposes of this case the following facts shall be considered proved and the case shall be submitted thereon to the court without a jury, as an agreed case.

On or about the 4th day of November, 1892, the land and premises described in the declaration was conveyed by a deed, conveying a good fee simple title, to one Samuel C. Raub, the same being executed by Louis P. Shoemaker, Francis D. Shoemaker, Clara A. Newman and Abigail C. Newman, and recorded December 28th, 1892, in Liber 1752, at folio 473 *et seq.* of the Land Records of the District of Columbia.

That Samuel C. Raub, though the absolute grantee of the said land on the face of the deed, held the same in trust for Augustus Burgdorff.

That on or about the said 4th day of November, 1892, the said Samuel C. Raub being such owner in fee simple as aforesaid, and being unmarried, by a good and valid deed conveyed said land and premises in fee simple to Albert F. Fox and Tallmage A. Lambert in and upon certain trusts as in said deed fully set forth, which said deed was duly recorded in Liber No. 1752, at folio 477 *et seq.* of the
6 land records of the District of Columbia, on the 28th day of December, 1892, which may be read in evidence by either party, and that by virtue of said latter deed of conveyance the legal title to said land and premises became and was vested in the said Albert F. Fox and Tallmage A. Lambert as such trustees as aforesaid.

That subsequent to the record of these deeds to Samuel C. Raub and Albert F. Fox and Tallmage A. Lambert, trustees, and within a period of eleven years prior to the institution of this suit, the defendant Brightwood Railway Company entered upon and took possession of said land and premises in the declaration herein described and constructed certain railroad tracks over and upon and across the same under a verbal consent and license of the said Burgdorff.

That subsequent to the entry of the defendant railway upon said land as aforesaid, namely, shortly prior to the 21st day of October, 1903, default having occurred under the terms of the said deed of

conveyance from Raub to Fox and Lambert, trustees, the latter, on the said 21st day of October, 1903, offered the land and premises in question for sale at public auction, in compliance with the terms and requirements of the said deed to them, and the plaintiff in this action became the purchaser thereof.

That thereafter, and on or about the 6th day of November, 1903, the said Albert F. Fox and Tallmage A. Lambert, as such trustees as aforesaid, executed a good and valid deed whereby they conveyed the said land and premises to the plaintiff in this action, and

7 whereby said plaintiff became and now is the owner of the same in fee simple and entitled to the immediate possession of said land, subject to any right or rights which may have accrued to the defendant railway company by its occupancy of said land for the said period of eleven years as aforesaid, under the circumstances hereinbefore and hereinafter set forth, and it is agreed that no demand was made upon the defendant to remove from and surrender possession of said land and premises, or to discontinue to use or to make any payment for the same until within or about three months prior to the institution of this suit.

That the defendant company was authorized by its charter, as amended by the act of July 26th, 1892, which shall be regarded as in evidence, to construct upon the ground in controversy in this suit, to be acquired by purchase or condemnation, its electric railway lines for the purposes of a public highway; that such lines were so constructed openly and notoriously for such purpose, under the above verbal license from Burgdorff, without condemnation or any written deed or authority, for the period of about eleven years prior to any demand by the plaintiff or his predecessors in title to remove from, surrender possession, or discontinue to use, or to make any demand for the said land; that, during said period, it was in the open and notorious use of the said land for the said purpose, and was and is openly and continuously operating its cars over the same for the use of the public, carrying about two hundred thousand passengers annually; that the defendant, when such demand was made, and thence hitherto, offered to pay for the same, but the plaintiff and defendant were and continue to be unable to agree
8 upon the proper price to be so paid, and this suit is brought and is being prosecuted because of the inability of the plaintiff and defendant to agree upon the proper compensation to be paid.

No formal or express notice of the construction of the railway across the property in question was ever given to or received by the said Albert F. Fox or Tallmage A. Lambert, nor have they or the plaintiff in this action ever affirmatively assented to the taking of this property by the defendant railway.

J. J. DARLINGTON,
Attorney for Defendant.
P. H. MARSHALL,
Att'y for Plaintiff.

MONDAY, *March 27th*, 1905.

* * * * *

Comes now as well the plaintiff by his attorney Mr. P. H. Marshall, as the defendant by its attorney Mr. J. J. Darlington, and by agreement submit this case upon a stipulated agreement of facts to the court: Whereupon, the court upon consideration thereof, finds the issues herein in favor of the defendant.

Whereupon, it is considered and adjudged, that the plaintiff herein take nothing by this action; that the defendant go hereof without day and recover of said plaintiff its costs of defense, to be taxed by the clerk, and have execution thereof.

Motion for Rehearing.

Filed March 29, 1905.

In the Supreme Court of the District of Columbia.

Comes now Edmund K. Fox, the plaintiff in the above case, by his attorney, and moves the court to strike out and vacate the judgment heretofore entered in this case and grant a rehearing upon the case stated, and for cause says :

1. That the verdict of the court, sitting as a jury, was contrary to the evidence.

10. 2. That the verdict of the court, sitting as a jury, was contrary to the weight of the evidence.

3. Because of errors of law committed by the court.

4. Because the court erred in granting the motion of the defendant that the court, sitting as a jury, find a verdict for the defendant upon the agreed case submitted herein.

P. H. MARSHALL,
Attorney for Plaintiff.

Please take notice that the above motion will be called to the attention of Mr. Chief Justice Clabaugh, in circuit court No. 2, on Friday, March 31, 1905, at 10 o'clock a. m., or as soon thereafter as counsel can be heard.

P. H. MARSHALL,
Attorney for Plaintiff.

I consent that this motion be considered as a motion for a new trial; and acknowledge service of above motion and notice this 28th day of March, 1905.

J. J. DARLINGTON,
Att'y for Defendant.

11 Supreme Court of the District of Columbia.

FRIDAY, June 9th, 1905.

Session resumed pursuant to adjournment, Hon. Harry M. Clabaugh, chief justice presiding.

* * * * *

EDMUND K. FOX, Plaintiff,

vs.

BRIGHTWOOD RAILWAY COMPANY OF THE
District of Columbia, a Corporation, Def't.

No. 46967. At Law.

It appearing that the judgment heretofore entered herein was prematurely entered, it is hereby ordered that the same be, and is hereby vacated, set aside and for nothing held. Further upon consideration of plaintiff's motion filed herein for a rehearing; it is ordered that said motion be, and is hereby denied, and judgment ordered. Whereupon, it is considered, and adjudged, that the plaintiff, herein take nothing by this action, that the defendant go hereof without day, and recover of said plaintiff its costs of defense to be taxed by the clerk, and have execution thereof.

From the foregoing the plaintiff by his attorney in open court notes an appeal to the Court of Appeals, and prays that appeal bond be fixed.

Whereupon, it is hereby ordered, that the plaintiff furnish bond herein in the sum of one hundred dollars (\$100) with surety or sureties to be approved by this court.

12

Memorandum.

June 20, 1905.—Appeal bond filed.

Stipulation.

Filed June 29, 1905.

In the Supreme Court of the District of Columbia.

EDMUND K. FOX, Plaintiff,

vs.

BRIGHTWOOD RAILWAY COMPANY OF THE
District of Columbia, a Corporation, De-
fendant.

} At Law. No. 46967.

It is hereby stipulated and agreed between counsel for the respective parties hereto that the deed of trust from Samuel C. Raub to Albert F. Fox and Tallmage A. Lambert, trustees, recorded in Liber 1752, folio 477 *et seq.* of the land records of the District of Columbia, and the act of Congress approved July 26, 1892, amending the charter of the defendant Brightwood Railway Company, both of which instruments are referred to in the agreed statement of facts filed in this cause, and were considered by the supreme court of the District of Columbia on the argument thereof, be made a part of the record on appeal in said cause.

J. J. DARLINGTON,
Attorney for Defendant.

P. H. MARSHALL,
Attorney for Plaintiff.

13

Deed of Trust.

Filed June 29, 1905.

Samuel C. Raub
to
Fox and Lambert, Trs. } Recorded Dec. 28, 1892, 2.54 p. m. Trust.

Liber 1752, folio 477 *et seq.*

This indenture, made this fourth day of November in the year of our Lord one thousand eight hundred and ninety-two (1892) between Samuel C. Raub (unmarried) of the District of Columbia of the first

part and Albert F. Fox and T. A. Lambert, of the city of Washington, D. C. of the second part, whereas, the said Samuel C. Raub stands justly indebted unto Louis P. Shoemaker and Francis D. Shoemaker trustees under wills of Abner C. P. Shoemaker and Pierce Shoemaker in the sum of eight thousand eight hundred and eight (8808) dollars, unpaid purchase money as to hereinafter described real estate for which he hath executed and delivered to the said Louis P. Shoemaker and Francis D. Shoemaker trustees as aforesaid his twelve (12) promissory notes, all bearing even date herewith and payable to their order as follows: Four for the sum of seven hundred and thirty four (734) dollars payable at one (1) year from date, four for the same amount payable at two (2) years from date and four for the same amount payable at three (3) years from date, all of said notes to yield interest from date until paid at the rate of six per cent. per annum the same to be due and payable semi-annually and being desirous to secure the punctual payment of said notes when and as the same shall as aforesaid become due and payable, with all interest and costs due and

14 accruing thereon, as well as any renewals or extensions thereof. Now therefore this indenture witnesseth that the

said party of the first part for and in consideration of the premises aforesaid and further the sum of one dollar paid to him by said parties of the second part hath granted bargained and sold, aliened, enfeoffed, released, and conveyed and doth by these presents grant, bargain and sell, alien enfeoff, release and convey unto the said parties of the second part and the survivor of them, his heirs and assigns the following described real estate situate in the county of Washington District of Columbia to wit: All that certain piece or parcel of land and premises known and distinguished as and being a part of a tract of land located on the Piney Branch road and near "Takoma Park" and particularly described as follows: Beginning for the same at a stone planted in the east side of the Piney Branch road at its intersection, with the eighth line of "Support" and running thence with the east side of said road N. $31^{\circ} 44'$ E. four hundred and fifty seven & $5/10$ feet to a stone and the Grammer land, thence leaving said road S. 60° E. six hundred and five and $8/10$ feet with the Grammer land to a stone planted in the seventh line of "Support" and the Beall land, thence with the seventh line of "Support" S. $33^{\circ} 53'$ W. two hundred and fifty eight and $15/100$ ft. with the Beall land to a stone in the 8th line of "Support" thence with said 8th line N. $78^{\circ} 22\frac{1}{2}'$ W. six hundred and thirty four and $4/10$ feet with the Beall land to the place of beginning, containing four (4) and $92/100$ ($4\frac{92}{100}$) acres of land together with all the easements, hereditaments and appurtenances to the same belonging or in anywise appertaining and

15 all the estate, right, title, interest and claim whatsoever, whether at law or in equity of the said party of the first part of, in, to or out of the said piece or parcel of land and premises. To have and to hold the said piece or parcel of land and premises with

the appurtenances unto and to the use of the said parties of the second part, and the survivor of them his heirs and assigns. In and upon the trusts nevertheless hereinafter mentioned and declared, that is, in trust to permit the said Samuel C. Raub his heirs or assigns, to use and occupy the said described premises and the rents, issues and profits thereof to take have and apply, to and for his and their sole use and benefit until default be made in the payment of said notes or any of them or any instalment of interest due thereon, or any proper cost, charge commission half commission or expense in and about the same. And upon the full payment of all of said notes and any extensions or renewals thereof and the interest thereon and all other proper costs, charges, commissions, half commissions, and expenses incurred by means of these trusts, at any time before the sale hereinafter provided for, to release and reconvey the said described premises unto the said Samuel C. Raub his heirs or assigns, at his or their cost. And upon this further trust, that upon default being made in the payment of any one of said promissory note- at maturity or any instalment of interest thereon or any proper cost, charge, commission, half commission insurance, taxes, or other proper expense, in and about the same, then and at any time thereafter to sell the said piece or parcel of land and premises or any portion thereof, at public auction, in front

16 of the premises, after at least ten days' notice of the time, place, and terms of sale, by advertisement in some one or more of the newspapers printed and published in the said city of Washington upon such terms and conditions as the said trustees or the survivor of them, may deem most advantageous to the parties interested, and with further power to postpone the sale from time to time in their or his discretion and to resell on default of the purchaser. And upon this further trust, upon full compliance with the terms of sale to convey the property sold in fee simple to the purchaser or purchasers thereof, at his her or their cost and expense and without any liability to see to the application of the purchase money, and out of the proceeds of said sale or sales, first to pay all proper costs, charges and expenses, and to retain as compensation a commission of five per cent. on the amount of said sale or sales.

Secondly to apply said purchase money to the payment of whatever may then remain unpaid of the said note and the interest thereon, to the time of said sale whether the same shall be due or not and lastly to pay the remainder, if any, to the said Samuel C. Raub his heirs or assigns. And the said party of the first part does hereby covenant with the parties of the second part the survivor of them, his heirs and assigns that all taxes upon the said land shall be duly paid by the said party of the first part, during the continuance of this trust; and further that in case the said Samuel C. Raub his heirs or assigns shall fail to pay taxes then the taxes may be paid by the holders of said notes, or either of them, and the amount of taxes paid shall be considered a part of the expense of said debt

17 secured hereby and shall bear the same rate of interest as the principal debt, in default of payment of which the said parties of the second part the survivor of them his heirs and assigns shall have the power to sell said property hereby conveyed as aforesaid and shall dispose of the proceeds of sale as hereinbefore provided. And it is further agreed that if the property shall be advertised for sale under the provisions of this deed and not sold, then the said trustees shall be entitled to one-half the commission above provided to be computed on the amount of the debt hereby secured.

In testimony whereof the said party of the first part has hereunto set his hand and seal on the day and year first hereinbefore written.

SAM'L C. RAUB, [SEAL.]
"Unmarried."

Signed sealed and delivered in the presence of

[SEAL.] JOS. FORREST.

DISTRICT OF COLUMBIA, ss :

I, Joseph Forrest a notary public in and for the District aforesaid do hereby certify that Samuel C. Raub (unmarried) party to a certain deed, bearing date on the fourth day of November A. D. 1892 and hereunto annexed personally appeared before me in the District aforesaid, the said Samuel C. Raub being personally well known to me to be the person who executed the said deed, and acknowledged the same to be his act and deed.

Given under my hand and notarial seal this twenty-fourth day of December A. D. 1892.

[NOTARIAL SEAL.]

JOSEPH FORREST,
Notary Public.

18 DISTRICT OF COLUMBIA :

OFFICE OF THE RECORDER OF DEEDS,
February 15th, 1905.

This is to certify that the foregoing is a true and verified copy of an instrument as recorded in Liber 1752 fol. 477 *et seq.* one of the land records of the District of Columbia.

[SEAL.]

JNO. C. DANCY,
Recorder of Deeds, Dist. of Col.

Amendment to Charter of Brightwood Railway, Approved, &c.

Filed June 29, 1905.

An Act to Amend an Act Entitled "An act to Incorporate the Brightwood Railway Company of the District of Columbia."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the charter granted to the Brightwood Railway Company by an act of Congress approved October eighteenth, eighteen hundred and eighty eight, be, and the same is, amended as follows :

"That within six months from the date of the approval of this act, the said Brightwood Railway Company shall equip and operate its existing line with the overhead trolley system of electric motive power, and shall thereafter maintain the road in first class
19 condition. That the road shall be supplied entirely with new cars of the most approved pattern, which shall be run as the public convenience shall require, but not less frequently than one car every fifteen minutes from each end of the line, between five o'clock ante meridian and twelve o'clock midnight.

"SEC. 2. That within twelve months from the date of the approval of this act the said Brightwood Railway Company shall extend its tracks to the District line, as provided in the original charter of said company, and shall operate the new portion of the line in the same manner and under the same conditions as hereinbefore provided for the operation of those portions of the road already built. The said company shall also construct and maintain a branch line, beginning at a point; to be located by the Commissioners of the District of Columbia, west of the Baltimore and Ohio railroad track on Fifth street in Takoma Park ; thence along Fifth street to Umatilla street; thence west along Umatilla street to and across Piney Branch road, and thence to Brightwood avenue by such route as the Commissioners of the District of Columbia shall approve. Said branch line shall be operated by the overhead trolley system; and when the company lays its double track from Brightwood to Takoma Park said tracks shall be laid on one side of the said road ; the cars used shall be first-class in every respect, and the schedule of the running of cars shall be subject to the approval of the District Commissioners, but cars shall be run as often as one every fifteen minutes between the hours of five o'clock ante meridian and
20 twelve o'clock midnight. Work on the said branch road shall be begun within two months and completed, with cars running thereon, within one year from the date of the approval of this act.

"SEC. 3. That in the event that the company should not be able to come to an agreement with the owner or owners of any land through which the said road may be located to pass, or upon which any necessary buildings may be required to be located, proceedings for the

condemnation for the use of the company of so much of said land as may be required, not exceeding one hundred feet in width, for its roadway, and of so much as may be necessary for buildings, and so forth, may be instituted in the usual way in the supreme court of the District of Columbia, under such rules and regulations as said court may prescribe for such purposes.

"SEC. 4. That any failure to comply with any of the provisions of this act shall work a forfeiture of the original charter of the said Brightwood Railway Company. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

"SEC. 5. That Congress reserves the right to alter, amend, or repeal this act."

Approved, July 26, 1892.

21 *Order to Clerk for Preparation of Record.*

Filed June 29, 1905.

In the Supreme Court of the District of Columbia.

EDMUND K. FOX, Plaintiff,

vs.

BRIGHTWOOD RAILWAY COMPANY OF THE DISTRICT OF COLUMBIA, a Corporation, Defendant.

} At Law. No. 46967.

The clerk of this court will please prepare transcript of record for the Court of Appeals in the above styled cause, including all proceedings had and papers filed therein.

P. H. MARSHALL,
Attorney for Plaintiff.

22 Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA, }
District of Columbia, } ss :

I, John R. Young, clerk of the supreme court of the District of Columbia, hereby certify the foregoing pages, numbered from 1 to 21, inclusive, to be a true and correct transcript of the record, as per directions of counsel herein filed, copy of which is made part of this transcript, in cause No. 46,967, at law, wherein Edmund K. Fox is plaintiff, and the Brightwood Railway Company of the District of Columbia, a corporation, is defendant, as the same remains upon the files and of record in said court.

In testimony whereof, I hereunto subscribe my name and affix the seal of said court, at the city of Washington, in said District, this 18th day of July, A. D. 1905.

JOHN R. YOUNG, *Clerk.*

Endorsed on cover: District of Columbia supreme court. No. 1584. Edmund K. Fox, appellant, vs. Brightwood Railway Company of the District of Columbia, a corporation. Court of Appeals, District of Columbia. Filed Jul-18, 1905. Henry W. Hodges, clerk